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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/058,565	01/28/2002	Jerry Wagner	1051-015F	5446
8698	7590	04/19/2004	EXAMINER	
STANDLEY LAW GROUP LLP 495 METRO PLACE SOUTH SUITE 210 DUBLIN, OH 43017			SHOSHO, CALLIE E	
			ART UNIT	PAPER NUMBER
			1714	

DATE MAILED: 04/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

10/058,565

Applicant(s)

WAGNER, JERRY

Examiner

Callie E. Shosho

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 29 March 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☒ Applicant's reply has overcome the following rejection(s): see attachment.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attachment.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: 5 and 10.

Claim(s) withdrawn from consideration: \_\_\_\_\_

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
10. ☐ Other: \_\_\_\_\_

Callie E. Shosho  
Primary Examiner  
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**Attachment to Advisory Action**

1. Applicants' amendment of 3/29/04 has been fully considered and is successful in overcoming the claim objection as set forth in paragraph 2 of the office action mailed 1/29/04 and the 35 USC 112 rejection of record as set forth in paragraph 4 of the office action mailed 1/29/04. However, applicants' amendment and arguments are not successful in overcoming the prior art rejections of record.

In the office action mailed 1/29/04, claims 5-6, 8-11, and 13-14 were rejected under 35 USC 103 by Dunbar (U.S. 4,820,931) in view of Redondo et al. (U.S. 6,552,112) and the evidence given in Davis et al. (U.S. 6,079,502) while claims 5-14 were rejected under 35 USC 103 by Dunbar in view of Kanamori (U.S. 5,747,574) and Kasahara et al. (U.S. 4,734,448) and the evidence given in Davis et al.

In response, as noted on page 5 of the amendment of 3/29/04, applicants have cancelled claims 6-9 and 11-14. Further, claim 5 and claim 10 were each amended by inserting into the claims the limitations of claim 6 and claim 11, respectively.

Applicants argue that in light of the amendment to claims 5 and 10, the outstanding rejections may be properly withdrawn as the cited references fail to render the claims an obvious variation of the prior art.

However, in the office action mailed 1/29/04, claims 5 and 6 and claims 10 and 11 were rejected by the prior art as set forth above. Thus, amended claim 5, which now recites the limitation of now cancelled claim 6, and amended claim 10, which now recites the limitation of now cancelled claim 11, remain rejected by the prior art for the reasons of record absent clear and convincing evidence to the contrary.

Applicants state that the rejections of record may be withdrawn in light of the amendment to claims 5 and 10, however, there is no specific explanation as to why applicants believe that the prior art does not meet the presently claimed limitations.

Each of claims 5 and 10 have been amended to recite that the copolymer of polypropylene resin in which ethylene/propylene rubber has been grafted onto the polypropylene chains contains between about 80% and about 85% polypropylene and between about 15% and about 20% ethylene/propylene rubber.

As set forth on page 6 of the office action mailed 1/29/04, Redondo et al. disclose graft copolymer of polypropylene with ethylene/propylene rubber wherein the copolymer comprises at least 70% polypropylene and thus, 30% or less ethylene/propylene rubber (col.8, lines 59-67). Such amounts clearly overlap those, i.e. about 80% and about 85% polypropylene and between about 15% and about 20% ethylene/propylene rubber, presently claimed.

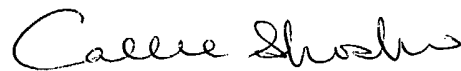
As set forth in paragraph 7 of the office action mailed 1/29/04, Kasahara et al. disclose copolymer comprising 70-95% polypropylene grafted with 5-30% ethylene-propylene copolymer (col.1, lines 47-61). Such amounts clearly overlap those, i.e. about 80% and about 85% polypropylene and between about 15% and about 20% ethylene/propylene rubber, presently claimed.

Thus, it is not clear why applicants argue that in light of the amendment to claims 5 and 10, the prior art is no longer applicable against these claims. Clarification is requested.

As set forth above, it is the examiner's position that the prior art discloses graft copolymer comprising amounts of polypropylene and ethylene/propylene rubber that clearly

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overlap those presently claimed and thus, the prior art clearly meets the limitations of amended claim 5 and amended claim 10.



Callie E. Shosho  
Primary Examiner  
Art Unit 1714

CS  
4/12/04